

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**ENBRIDGE ENERGY, LIMITED**

**PARTNERSHIP,**

**ENBRIDGE PIPELINES (LAKEHEAD) L.L.C.,**

**ENBRIDGE ENERGY PARTNERS, L.P.,**

**ENBRIDGE ENERGY MANAGEMENT, L.L.C.,**

**ENBRIDGE ENERGY COMPANY, INC.,**

**ENBRIDGE EMPLOYEE SERVICES, INC.,**

**ENBRIDGE OPERATIONAL SERVICES, INC.,**

**ENBRIDGE PIPELINES INC., and**

**ENBRIDGE EMPLOYEE SERVICES CANADA**

**INC.,**

**Defendants.**

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**Civil Action No. 1:16-cv-914**

**Judge Gordon J. Quist**

**NOTICE OF LODGING OF PROPOSED  
FIFTH MODIFICATION OF CONSENT DECREE**

Plaintiff, the United States of America, hereby lodges with the Court a proposed Fifth Modification of Consent Decree. The proposed modification, which is attached as Exhibit 1, would revise specified provisions of the Consent Decree previously entered by the Court in this action (ECF No. 14). The Consent Decree establishes extensive requirements applicable to fourteen oil transmission pipelines, referred to as Lakehead System pipelines, that are owned or operated by Enbridge Energy, Limited Partnership and several affiliated entities (“Enbridge”). Among other things, the proposed Fifth Modification of Consent Decree would revise and clarify

requirements governing Enbridge's management of pipeline dents that also have indications of corrosion. The proposed Fifth Modification of Consent Decree also revises or clarifies some other provisions of the Consent Decree, including a provision to correct certain Established Maximum Operating Pressure values applicable to Lakehead System Line 61, and certain provisions in Appendix A of the Consent Decree that establish criteria for identifying Priority Features for purposes of Paragraph 33 of the Consent Decree.<sup>1</sup> The Agreed Fifth Modification of Consent Decree is also subject to public notice and comment consistent with the procedures of 28 C.F.R. § 50.7. It also constitutes a material modification that is subject to approval by the Court under Paragraph 201 of the Consent Decree.

In accordance with Department of Justice policy, the proposed Fifth Modification of Consent Decree reserves the right of the United States to withdraw from the proposed modification if public comments disclose facts or considerations indicating that the Fifth Modification of Consent Decree is improper, inadequate or inconsistent with applicable law. Therefore, the Court should not sign or enter the proposed Agreed Fifth Modification of Consent Decree until the United States informs the Court whether it is requesting the Court's approval of the modification.

The United States will publish in the Federal Register a notice advising the public of an opportunity to submit comments on the proposed Fifth Modification of Consent Decree during a 30-day public comment period following publication of the Federal Register notice. At the conclusion of the public comment period, the United States will evaluate any comments received, inform the Court of the substance of such comments as well as the United States'

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<sup>1</sup> The proposed Fifth Modification of Consent Decree is not intended to address or resolve any issues under Section XI of the Consent Decree. Any such issues will be addressed separately.

response to the comments, and, if appropriate, file a motion requesting that the Court approve and enter the Agreed Fifth Modification of Consent Decree.

Respectfully submitted,

For the United States of America

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s/ Steven J. Willey  
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CERTIFICATE OF SERVICE

The undersigned certifies that, on this day, the foregoing Notice of Fifth Modification of Consent Decree was filed electronically with the Clerk of the Court using the Court's Electronic Case Filing System, which sent notification of such filing to all counsel of record through the ECF notification system.

s/ Steven J. Willey

Dated: May 7, 2020